



## ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OLEM-2018-0013, FRL-9505-01-OMS]

### Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Revisions to the RCRA Definition of Solid Waste (Renewal)

**AGENCY:** Environmental Protection Agency

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Revisions to the Resource Conservation and Recovery Act (RCRA) Definition of Solid Waste (EPA ICR Number 2310.07, OMB Control Number 2050-0202) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2022. Public comments were previously requested via the *Federal Register* on June 28, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA-HQ-OLEM-2018-0013, online using [www.regulations.gov](https://www.regulations.gov) (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity,

threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Tracy Atagi, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: 202-566-0511; email address: [Atagi.Tracy@epa.gov](mailto:Atagi.Tracy@epa.gov).

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at [www.regulations.gov](http://www.regulations.gov). Due to public health concerns related to COVID-19, the EPA Docket Center and Reading Room are open to the public by appointment only. For further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>. The telephone number for the Docket Center is 202-566-1744.

*Abstract:* In 2018, the EPA published final revisions to the definition of solid waste that exclude certain hazardous secondary materials from regulation (83 FR 24664, May 30, 2018). The 2018 final rule was promulgated in response to orders issued by the United States Court of Appeals for the District of Columbia Circuit on July 7, 2017, and amended on March 6, 2018, vacating certain provisions of the 2015 rule and reinstated corresponding provisions from the 2008 rule. The information requirements help ensure that (1) entities operating under the regulatory exclusions are held accountable to the applicable requirements; (2) state inspectors can verify compliance with the restrictions and conditions of the exclusions when needed; and (3) hazardous secondary materials exported for recycling are actually handled as commodities abroad. Recordkeeping requirements include:

- Under the generator-controlled exclusion at 40 CFR 261.4(a)(23), the tolling contractor

has to maintain at its facility for no less than three years records of hazardous secondary materials received pursuant to its written contract with the tolling manufacturer, and the tolling manufacturer must maintain at its facility for no less than three years records of hazardous secondary materials shipped pursuant to its written contract with the tolling contractor. In addition, facilities performing the recycling of hazardous secondary materials under the generator-controlled exclusions at 40 CFR 261.4(a)(23) to maintain documentation of their legitimacy determination onsite.

- Under the transfer-based exclusion at 40 CFR 261.4(a)(24), a generator sending secondary hazardous materials to a facility that does not have a permit, would be required to conduct a “reasonable efforts” environmental audit of the receiving facility; and a hazardous secondary materials recycler must meet the following conditions: having financial assurance in place, having trained personnel, and meeting emergency preparedness and response conditions.
- Under the export requirements of the transfer-based exclusion at 40 CFR 261.4(a)(25), exporters of hazardous secondary material must provide notice and obtain consent of the receiving country and file an annual report.
- Under the remanufacturing exclusion at 40 CFR 261.4(a)(27), both the hazardous secondary material generator and the remanufacturer must maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments.
- Under the revised speculative accumulation requirement in 261.1(c)(8), all persons subject to the speculative accumulation requirements must label the storage unit by indicating the first date that the material began to be accumulated.

*Form Numbers:* None.

*Respondents/affected entities:* Private business or other for-profit, as well as State, Local, or Tribal governments.

*Respondent’s obligation to respond:* Required to obtain or retain a benefit (42 U.S.C. 6921,

6922, 6923, and 6924.)

*Estimated number of respondents:* 4,848

*Frequency of response:* On occasion.

*Total estimated burden:* 36,760 hours per year. Burden is defined at 5 CFR 1320.03(b)

*Total estimated cost:* \$2,793,420 (per year), which includes \$18,403 in annualized capital or operation & maintenance costs.

*Changes in the Estimates:* There is an increase of 1,877 hours compared to the currently approved ICR due mainly to the inclusion of State Agency burden. There were no program changes.

**Courtney Kerwin,**

*Director, Regulatory Support Division*

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